

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF EDMONTON

IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*
R.S.C. 1985, c. B-3, AS AMENDED

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*
R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF THE PLAN OF
ARRANGEMENT AND REORGANIZATION

OF

COW HARBOUR CONSTRUCTION LTD.
("CHC" or the "Company")

**SECOND REPORT TO THE COURT
OF THE CHIEF RESTRUCTURING ADVISOR**

INTRODUCTION

1. On April 1, 2010 Cow Harbour Construction Ltd. filed a Notice of Intention to File a Proposal under the *Bankruptcy and Insolvency Act*. These proceedings were subsequently taken up under the *Companies' Creditors Arrangement Act* ("CCAA") as discussed below.
2. On April 7, 2010 the Company made an application under the CCAA and an initial order was granted by the Honourable Justice K. D. Yamuchi of the Court of Queen's Bench of Alberta granting, *inter alia*, a stay of proceedings against the Company until and including May 3, 2010 ("the Stay Period").
3. On April 28, 2010 the Court extended the Stay Period to May 21, 2010.
4. On May 21, 2010 the Court extended the Stay Period to June 4, 2010.
5. On May 21, 2010 the Court also directed that a committee ("the Sales Committee" or "SC") be formed to oversee and guide a dual track process for the sale or refinancing of the Company.

6. On May 24, 2010 the SC met and decided to proceed with a sale and refinancing plan based on a proposal from Ernst & Young Orenda Corporate Finance Inc. ("Ernst & Young"), subject to Court approval. The minute of that meeting was finalized earlier this week and is attached as Appendix "A" to this report.
7. On May 28, 2010 counsel for the Chief Restructuring Advisor ("CRA") applied for Court approval of the engagement of Ernst & Young, of the sale and refinancing plan and of the timetable, as set out in the First Report of the CRA dated May 27, 2010. At that time the Court ordered the CRA and Ernst & Young to proceed with the sale and refinancing plan on the timelines proposed and adjourned the application for approval of the engagement of Ernst & Young pending circulation to the service list of their engagement later and a work plan ("the Work Plan") as proposed in its Seventh Report by Deloitte & Touche Inc. ("the Monitor"). Both documents were circulated as directed.
8. On June 1, 2010 the Court reconvened and issued an Order approving the sale and refinancing plan, the timeline and the engagement of Ernst & Young. For the record, a copy of the Engagement Letter of Ernst & Young dated May 26, 2010 and approved by the Court is attached as Appendix "B" to this report and a copy of the Work Plan dated May 31, 2010 and approved by the Court is attached as Appendix "C" to this report.

Progress on the Sale and Refinancing Plan

9. After the Court hearing on May 28, 2010 and since then, the CRA, Ernst & Young and the Monitor have been proceeding to implement the sale and refinancing plan materially in accordance with the timetable and the Work Plan, all as directed by this Honourable Court and as set out in detail below.
10. The sale and refinancing plan has progressed as follows:
 - (i) Within half an hour of the adjournment of the Court hearing on May 28 the CRA and Aroon Sequeira, the Senior Vice-President of Ernst & Young assigned to this project, started contacting prospective sources of refinancing and prospective buyers.

- (ii) A Teaser and a Confidentiality Agreement ("CA") have been prepared and dissemination of these began on May 31 in accordance with the timetable. On May 31 twenty-five packages were sent out and to date approximately forty packages altogether have been sent. Ernst & Young is following up with top prospects by telephone.
 - (iii) A Confidential Information Memorandum ("CIM") has been prepared and on the morning of June 2 dissemination commenced to prospects that signed and returned the CA. As of close of business on June 2, two CAs had been received and so two CIMs were sent out. Three additional parties have requested CIMs and responses are pending.
 - (iv) The (electronic) Data Room was finalized and uploaded on June 2 and is now accessible to authorized persons.
 - (v) So far the CRA and Ernst & Young have identified over 40 prospects and are in the process of contacting these to solicit and encourage their interest in refinancing or sale.
11. Based on the response to date and the wisdom of allowing the sale and refinancing plan to unfold and assess the results, the CRA is of the opinion that it only makes sense to extend the Stay Period to ascertain the market for sale or refinancing of the Company and to develop a Plan of Arrangement based on the results of the process. To do otherwise would lay waste to all the work done by the CRA, the Monitor and the Company to date and to the investment by the creditors in that work, with no material benefit to the Company, its employees and its creditors.

Fleet Utilization

12. Paragraph 15 of the Order made on May 21, 2010 required the CRA to "report to this Honourable Court prior to June 4, 2010, with respect to any equipment of CHC which is not necessary or required in CHC's business operations."

13. In furtherance of this task, the CRA and the Monitor developed a plan to ascertain fleet utilization of CHC taking into account the ongoing and anticipated work of CHC and the condition of its equipment. The desire of the CRA was to develop a job-by-job, unit-by-unit analysis of the equipment of the Company with reference to the condition of each unit. Of necessity, that information must be supplied by the Company.
14. In response to inquiries by the CRA, officials of CHC on May 29 said that the Company needs all of the equipment and that they anticipate they are going to get a bunch of work from Suncor and Shell/Albion.
15. On May 31 the CRA further inquired of the Company by email as follows:

Gentlemen

As previously stated...I need the unit numbers of the equipment that you plan to use for the anticipated level of work from Syncrude over the next two months. I also need a plan for the servicing and repairs required for that active fleet. I need to report to the court this Friday. So far I have received nothing.

Pat

16. In response to a reply from the Company essentially reiterating the advice of May 31, on June 2 the CRA further inquired of the Company by email as follows:

What does this mean? How many trucks do we need? How many excavators? How many dozers? How many lube trucks? How many men? What are the unit numbers of the equipment we will use? What is their condition? How many hours on the components? Why is this such a secret? There is a court order that must be fulfilled. Given what was reported to me today about the judges concerns...it would be very advisable that we start to cooperate. The whole CCAA protection could very well disappear on Friday. You are welcome to govern yourselves accordingly. I am at a total loss as to why CHC management are ignoring this request.

Demetri is standing by waiting for your data to compile. This information was to form the basis of our cash flow projections as well.

Pat Ross

17. On the morning of June 3 the CRA received a response from the Company to the last inquiry above asking, "What else do you need?" to which the CRA has replied, "The only statement from last week is that we need the whole fleet because we have a chance at a lot of work. If I missed something else from you please let me know." The CRA is standing by for further information from the Company but has received none as of the time required to finalize, file and serve this report.
18. The information from the Company to date suggests that all the equipment of the Company is necessary and required in CHC's business operations. At this time the CRA has no further information to add by way of report.

CRA contract with CHC

19. On May 28 a copy of the contract dated March 24, 2010 was provided to the service list by counsel for the Monitor, with the consent of the CRA and of the Company. That agreement has been the subject of discussions before this Honourable Court on a number of occasions but to date no applications on proper notice and evidence have been made. For the record, a copy of this agreement is attached as Appendix "D" to this report.

The Chief Restructuring Advisor respectfully submits to this Honourable Court this, his Second Report.

Dated this 3rd day of June 2010.

Patrick F. Ross
Chief Restructuring Advisor
Cow Harbour Construction Ltd.

Minutes of CHC Refinancing/Sales Team

Monday May 24, 2010 2:00 PM MDT

Phone attendees;

Gord Smith, Demetre Koumarelas, Sean Collins, Ray Rutman, Don Maclean, Linda Vanderburgt, Pat Ross,

"There was some question as to whether Mike McCabe had been invited to the call, through oversight. As attempts to contact him at the inception of the call were not successful, it was put to Demetri Koumarelas as to whether he was comfortable continuing without counsel, with the understanding that if he felt at any time during the discussion that he wished counsel to be on the call, he could so indicate. Demetri confirmed it would okay for the call to proceed without counsel."

1) It was determined that the Team would consist of the following voting members;

Demetri Koumarelas for CHC

Sean Collins (or his designate) for GE

Linda Vanderburgt for RBC

Patrick Ross, CRA

Gord Smith will act as observer in his capacity as court appointed Monitor

2) It was agreed that the Refinancing/Sales process has to be done as quickly as humanly possible given the precipitous drop in revenues. This streamlined short process should take less than eight weeks.

3) Demetri spoke to the Callidus and Scott capital opportunities. They are reviewing the Monitors sixth report and will get back to the company with respect to their enthusiasm to pursue the opportunity.

4) We discussed preliminary work done with respect to sales process

5) We discussed the McCarthy Tetrault process and concluded that it was a bit too meaty for the short time frame that we have contemplated.

6) Aroon Sequeira of E&Y called in and explained his potential role.

7) After Aroon left the committee voted. The company, RBC and CRA vote to retain E&Y. Mr. Collins indicated that while he is not necessarily opposed to the retention of E&Y, he abstained. The CRA was instructed to manage the expenses closely and report the costs to the Team on a weekly basis. The CRA also proposed that should the creditors approve a plan of arrangement and a refinancing and or Sale is completed, the CRA would be happy to have all E&Y fees and disbursements subtracted from the CRA's percentage Success fee. If the plan fails than the company will bear the E&Y costs.

8) It was agreed that the CRA would make a report to the court outlining what the committee agreed to. It was also suggested that the CRA obtain counsel to assist in the preparation and presentation of the report.

9) It was contemplated that the CHC Refinancing/Sales Team would meet again on Monday, May 31 at 2:00 MT to discuss progress.

Adjourn



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PRIVATE & CONFIDENTIAL

May 26, 2010

Cow Harbour Construction Ltd.
Patrick F. Ross
Chief Restructuring Advisor
316 MacKay Crescent
Fort McMurray, AB
T9H 4E4
Canada

Proposed Divestiture/Re-Financing of Cow Harbour Construction Ltd. ("Cow Harbour" or the "Business")

Dear Mr. Ross:

Thank you for choosing Ernst & Young Orenda Corporate Finance Inc. ("we" or "EY") to perform professional services (the "Services") for Cow Harbour ("you" or "Client"). We appreciate the opportunity to assist you and look forward to working with you.

The attached Statement of Work describes the scope of the Services, our fees for the Services, and any additional arrangements. The Services will be subject to the terms and conditions of this letter, together with its attachments, including the General Terms and Conditions attached to this letter (together, this "Agreement").

Please sign this letter in the space provided below to indicate your agreement with these arrangements and return it to our office at your earliest convenience. If you have any questions about any of these materials, please do not hesitate to contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Aron Sequeira', with a long horizontal flourish extending to the right.

Aron Sequeira, CA, CBV
Senior Vice President

Agreed:

Cow Harbour Construction Ltd.,

By: 

Name: Patrick F. Ross

Title: Chief Restructuring Advisor

Encl:

- ▶ Statement of work
- ▶ General terms and conditions
- ▶ Appendix A - Sale and Re-financing Process

Statement of work

Divestiture and Re-Financing assistance

We are pleased to accept this engagement to provide you with divestiture and re-financing assistance. We expect to work closely with you, management as needed, Deloitte Inc. in their capacity as monitor ("Monitor") and other stakeholders and their legal counsel as appropriate.

We would manage the sale and re-financing process (materially as described in Appendix A), including but not limited to preparation and review of materials, sourcing and qualification of purchasers, review of expressions of interest and/or formal offers and resolution of issues that may arise with prospective purchasers.

EY has undertaken an inquiry of its available records to determine whether potential conflicts of interest might exist with respect to the performance of the services in respect of this matter. We do not believe that any conflict of interest exists which would prevent us from providing the services. However, the wide range of services provided by EY and other EY Firms for a large number of clients, as well as changing circumstances, mean that our systems cannot identify each and every potential conflict of interest. The parties agree that EY shall not be deemed to have a conflict of interest simply because EY or another EY Firm provides or has previously provided unrelated services to potential counterparties to this transaction.

Restructuring assistance

EY is also prepared to act in the capacity of restructuring advisor to the ~~CRO~~ ^{CRA}. These services would be provided by Neil Narfason, Deryck Helkaa, and others as appropriate.

Client contact

We understand that our primary point of contact in this matter shall be Patrick Ross. We shall take instruction from Patrick and the Sales Committee as appropriate.

Compensation

In consideration of the foregoing, our fees would be based on time spent at the following hourly rates:

- ▶ Partner/Senior Vice President \$650
- ▶ Vice-President (if required) \$475
- ▶ Associate (if required) \$375

We will invoice the Company weekly. Fees are due when invoiced. We would request a \$50,000 retainer upon execution of this engagement letter.

Expenses

In addition to the professional fees set out above, you agree to reimburse EY for its expenses as follows. Out-of-pocket costs such as travel, meals, accommodation, and other significant expenses, will be charged as incurred, subject to the pre-approval of individual out-of-pocket expenses over \$1,000. Other administrative expenses such as administrative support personnel,

printing, telephone, delivery and other administrative support costs will be covered by a 5% administration charge on the hourly fees.

Termination

EY's engagement hereunder may be terminated at any time with or without cause by either you or EY upon ten days written notice thereof to the other party. Any termination of EY's engagement hereunder shall not affect your obligation to pay fees earned and expenses incurred prior to such termination.

Conditions

We understand that this engagement is conditional on the Company obtaining necessary court approval on May 28, 2010 or other later date as appropriate.

GENERAL TERMS AND CONDITIONS

Our relationship with you

1. We will perform the Services in accordance with applicable professional standards.
2. We are a member of the global network of Ernst & Young firms ("EY Firms"), each of which is a separate legal entity.
3. We will provide the Services to you as an independent contractor and not as your employee, agent, partner or joint venturer. Neither you nor we have any right, power or authority to bind the other.
4. We may subcontract portions of the Services to other EY Firms, who may deal with you directly. Nevertheless, we alone will be responsible to you for the Reports (as defined in Section 11), the performance of the Services, and our other obligations under this Agreement.
5. We will not assume any of your management responsibilities in connection with the Services. We will not be responsible for the use or implementation of the output of the Services, although we may otherwise provide advice and recommendations to assist you in your management functions and making decisions.

Your responsibilities

6. You shall assign a qualified person to oversee the Services. You are responsible for all management decisions relating to the Services, the use or implementation of the output of the Services and for determining whether the Services are appropriate for your purposes.
7. You shall provide (or cause others to provide) to us, promptly, the information, resources and assistance (including access to records, systems, premises and people) that we reasonably require to perform the Services.
8. To the best of your knowledge, all information provided by you or on your behalf ("Client Information") will be accurate and complete in all material respects. The provision of Client Information to us will not infringe any copyright or other third-party rights.
9. We will rely on Client Information made available to us and, unless we expressly agree otherwise, will have no responsibility to evaluate or verify it.

10. You shall be responsible for your personnel's compliance with your obligations under this Agreement.

Our reports

11. Any information, advice, recommendations or other content of any reports, presentations or other communications we provide under this Agreement ("Reports"), other than Client Information, are for your internal use only (consistent with the purpose of the particular Services).
12. You may not disclose a Report (or any portion or summary of a Report) externally (including to your affiliates) or refer to us or to any other EY Firm in connection with the Services, except:
 - (a) to your lawyers (subject to these disclosure restrictions), who may use it only to give you advice relating to the Services,
 - (b) to the extent, and for the purposes, required by subpoena or similar legal process (of which you will promptly notify us),
 - (c) to other persons (including your affiliates) with our prior written consent, who have executed an access letter substantially in the form prescribed by the applicable Statement of Work, and who may use it only as we have specified in our consent, or
 - (d) to the extent it contains Tax Advice, as set forth in Section 13.

If you are permitted to disclose a Report (or a portion thereof) externally, you shall not alter, edit or modify it from the form we provided.

13. You may disclose to anyone a Report (or a portion thereof) solely to the extent that it relates to tax matters, including tax advice, tax opinions, tax returns, or the tax treatment or tax structure of any transaction to which the Services relate ("Tax Advice"). With the exception of tax authorities, you shall inform those to whom you disclose Tax Advice that they may not rely on it for any purpose without our prior written consent.
14. You may incorporate into documents that you intend to disclose externally EY summaries, calculations or tables based on Client Information contained in a Report, but not our recommendations, conclusions or findings.

However, you must assume sole responsibility for the contents of those documents and not refer to us or any other EY Firm in connection with them. This provision does not affect your ability to circulate Reports internally.

15. You may not rely on any draft Report. We shall not be required to update any final Report for circumstances of which we become aware, or events occurring, after its delivery.

Notice re: Québec

16. From time to time, we may have individual partners and employees performing the Services within the Province of Québec who are members of the *Ordre des comptables agréés du Québec*. Any individual member of the *Ordre des comptables agréés du Québec* performing professional services hereunder assumes full personal civil liability arising from the practice of his or her profession, regardless of his or her status within our organization. He or she may not invoke the liability of our organization as a ground for excluding or limiting his or her own liability. The limitations that follow below under the heading "*Limitations*" shall therefore not apply to limit the personal civil liability of members of the *Ordre des comptables agréés du Québec* (and with respect to such members, such limitations shall be deemed to not be included in this Agreement).

Limitations

17. You (and any others for whom Services are provided) may not recover from us, in contract or tort (including negligence), under statute or otherwise, any consequential, incidental, indirect, punitive or special damages in connection with claims arising out of this Agreement or otherwise relating to the Services, including any amount for loss of profit, data or goodwill, whether or not the likelihood of such loss or damage was contemplated.
18. You (and any others for whom Services are provided) may not recover from us, in contract or tort (including negligence), under statute or otherwise, aggregate damages in excess of the fees actually paid for the Services that directly caused the loss in connection with claims arising out of this Agreement or otherwise relating to the Services. This limitation will not apply to losses caused by our fraud or willful misconduct or to the extent prohibited by applicable law or professional regulations.
19. If we are liable to you (or to any others for whom Services are provided) under this Agreement or otherwise in connection with the Services, for loss

or damage to which any other persons have also contributed, our liability to you shall be several and not joint and several, solidary or *in solidum*, with such others, and shall be limited to our fair share of that total loss or damage, based on our contribution to the loss and damage relative to the others' contributions. No exclusion or limitation on the liability of other responsible persons imposed or agreed at any time shall affect any assessment of our proportionate liability hereunder, nor shall settlement of or difficulty enforcing any claim, or the death, dissolution or insolvency of any such other responsible persons or their ceasing to be liable for the loss or damage or any portion thereof, affect any such assessment.

20. You shall make any claim relating to the Services or otherwise under this Agreement no later than one year after you became aware (or ought reasonably to have become aware) of the facts giving rise to any alleged such claim and in any event, no later than two years after the completion of the particular Services (and the parties agree that the limitation periods established by the *Limitations Act, 2002* (Ontario) or any other applicable legislation shall be varied and/or excluded accordingly). This limitation will not apply to the extent prohibited by applicable law or professional regulations.

21. You may not make a claim or bring proceedings relating to the Services or otherwise under this Agreement against any other EY Firm or our or its subcontractors, members, shareholders, directors, officers, partners, principals or employees ("EY Persons"). You shall make any claim or bring proceedings only against us. The limitations in Sections 17 through 20 and this Section 21 are intended to benefit the other EY Firms and all EY Persons, who shall be entitled to rely on and enforce them.

Indemnity

22. To the fullest extent permitted by applicable law and professional regulations, you shall indemnify us, the other EY Firms and the EY Persons against all claims by third parties (including your affiliates) and resulting liabilities, losses, damages, costs and expenses (including reasonable external and internal legal costs) arising out of the third parties' use of or reliance on any Report (including Tax Advice) disclosed to it by or through you or at your request.

Intellectual property rights

23. We may use data, software, designs, utilities, tools, models, systems and other methodologies and know-how ("**Materials**") that we own or license in

performing the Services. Notwithstanding the delivery of any Reports, we retain all intellectual property rights in the Materials (including any improvements or knowledge developed while performing the Services), and in any working papers compiled in connection with the Services (but not Client Information reflected in them).

24. Upon payment for particular Services, you may use any Materials included in the Reports relating to those Services, as well as the Reports themselves as permitted by this Agreement.

Confidentiality

25. Except as otherwise permitted by this Agreement, neither of us may disclose to third parties the contents of this Agreement or any information (other than Tax Advice) provided by or on behalf of the other that ought reasonably to be treated as confidential and/or proprietary. Either of us may, however, disclose such information to the extent that it:
- (a) is or becomes public other than through a breach of this Agreement,
 - (b) is subsequently received by the recipient from a third party who, to the recipient's knowledge, owes no obligation of confidentiality to the disclosing party with respect to that information,
 - (c) was known to the recipient at the time of disclosure or is thereafter created independently,
 - (d) is disclosed as necessary to enforce the recipient's rights under this Agreement, or
 - (e) must be disclosed under applicable law, legal process or professional regulations.
26. Either of us may use electronic media to correspond or transmit information and such use will not in itself constitute a breach of any confidentiality obligations under this Agreement.
27. We may disclose Client Information to other EY Firms and EY Persons to facilitate performance of the Services, to comply with regulatory requirements, to check conflicts, or for quality, risk management or financial accounting purposes.
28. With respect to any Services, if U.S. Securities and Exchange Commission auditor independence requirements apply to the relationship between you

or any of your associated entities and any EY Firm, you represent, to the best of your knowledge, as of the date of this Agreement and as of the date of each Statement of Work hereunder, that neither you nor any of your affiliates has agreed, either orally or in writing, with any other advisor to restrict your ability to disclose to anyone the tax treatment or tax structure of any transaction to which the Services relate. An agreement of this kind could impair an EY Firm's independence as to your audit or that of any of your affiliates, or require specific tax disclosures as to those restrictions. Accordingly, you agree that the impact of any such agreement is your responsibility.

Data protection

29. We may collect, use, transfer, store or otherwise process (collectively, "Process") Client Information that can be linked to specific individuals ("Personal Data"). We may Process Personal Data in various jurisdictions in which we and the other EY Firms operate (which are listed at www.ey.com). We will Process Personal Data in accordance with applicable law, professional regulations and our privacy policy (which is available at www.ey.com/ca). We will require any service provider that Processes Personal Data on our behalf to adhere to such requirements.
30. You warrant that you have the authority to provide the Personal Data to us in connection with the performance of the Services and that the Personal Data provided to us has been Processed in accordance with applicable law.

Fees and expenses generally

31. You shall pay our professional fees and specific expenses in connection with the Services as detailed in the applicable Statement of Work. You shall also reimburse us for other reasonable expenses incurred in performing the Services. Our fees are exclusive of taxes or similar charges, as well as customs, duties or tariffs imposed in respect of the Services, all of which you shall pay (other than taxes imposed on our income generally).
32. We may charge additional professional fees if events beyond our control (including your acts or omissions) affect our ability to perform the Services as originally planned or if you ask us to perform additional tasks.
33. If we are required by applicable law, legal process or government action to produce information or personnel as witnesses with respect to the Services or this Agreement, you shall reimburse us for any

professional time and expenses (including reasonable external and internal legal costs) incurred to respond to the request, unless we are a party to the proceeding or the subject of the investigation.

Force majeure

34. Neither you nor we shall be liable for breach of this Agreement (other than payment obligations) caused by circumstances beyond your or our reasonable control.

Term and termination

35. This Agreement applies to all Services performed at any time (including before the date of this Agreement).
36. This Agreement shall terminate upon the completion of the Services. Either of us may terminate it, or any particular Services, earlier upon 30 days' prior written notice to the other. In addition, we may terminate this Agreement, or any particular Services, immediately upon written notice to you if we reasonably determine that we can no longer provide the Services in accordance with applicable law or professional obligations.
37. You shall pay us for all work-in-progress, Services already performed, and expenses incurred by us up to and including the effective date of the termination of this Agreement. Payment is due within 30 days following receipt of our invoice for these amounts.
38. The provisions of this Agreement, including Section 14 and otherwise with respect to Reports, that give either of us rights or obligations beyond its termination shall continue indefinitely following the termination of this Agreement, except that our respective confidentiality obligations (other than those relating to Reports or under Section 14) shall continue thereafter for three years only.

Governing law and dispute resolution

39. This Agreement, and any non-contractual matters or obligations arising out of this Agreement or the Services, shall be governed by, and construed in accordance with, the laws of the Province of Ontario and the laws of Canada applicable therein, without regard to principles of conflicts of law. Any dispute, claim or other matter arising out of or relating to this Agreement or the Services shall be subject to the exclusive jurisdiction of the Ontario courts, to which each of us agrees to submit for these purposes.

Miscellaneous

40. This Agreement constitutes the entire agreement between us as to the Services and the other matters it covers, and supersedes all prior agreements, understandings and representations with respect thereto, including any confidentiality agreements previously delivered.
41. Both of us may execute this Agreement (including Statements of Work), as well as any modifications thereto, by electronic means and each of us may sign a different copy of the same document. Both of us must agree in writing to modify this Agreement or any Statement of Work hereunder.
42. You represent that the person signing this Agreement and any Statement of Work hereunder on your behalf is expressly authorized to execute it and to bind you and any of your affiliates or others for whom Services are performed to its terms. You also represent that this Agreement has, if necessary, been considered and approved by your Audit Committee.
43. You agree that we and the other EY Firms may, subject to professional obligations, act for other clients, including your competitors.
44. Neither of us may assign any of our rights, obligations or claims under this Agreement.
45. If any provision of this Agreement (in whole or part) is held to be illegal, invalid or otherwise unenforceable, the other provisions shall remain in full force and effect.
46. If there is any inconsistency between provisions in different parts of this Agreement, those parts shall have precedence as follows (unless expressly agreed otherwise): (a) the Cover Letter, (b) the applicable Statement of Work and any attachments thereto, (c) these General Terms and Conditions, and (d) other attachments to this Agreement.
47. We may use your name publically to identify you as a client, but we may refer to you in connection with the Services only if it is a matter of public knowledge that we are providing them (or have provided them).
48. For administrative reasons, you may from time to time ask that fees and expenses for Services performed for your international affiliates or at international locations be invoiced to you or your designate there, in local currency. You guarantee

the timely payment of all those invoices by your affiliates.

49. Where you have engaged the Canadian firm of Ernst & Young LLP, please note the following. We are a registered limited liability partnership ("LLP") continued under the laws of the province of Ontario and we are registered as an extra-provincial LLP in Quebec and other Canadian provinces. Generally, an LLP partner is not personally liable for the debts, obligations or liabilities of the LLP arising from the negligence of persons not under his or her direct supervision (including other LLP partners) or most other debts or obligations of the LLP. As an LLP, we are required to maintain certain insurance. Our insurance exceeds the mandatory professional liability insurance requirements established by any provincial Institute/Order of Chartered Accountants.

Cow Harbour Construction Ltd.**Appendix A***Sale and Re-Financing Process***Introduction:**

Subject to court approval, Ernst & Young Orenda Corporate Finance Inc. has been retained by the CRA on behalf of the Company, with the concurrence of the Sales Committee, to act as Sales and Re-financing Advisor ("SRA").

Proposed Sales/Re-financing Plan:

- ▶ Finalize all marketing material including but not limited to the Confidentiality Agreement ("CA"), Summary Profile ("Teaser") and Confidential Information Memorandum ("CIM").
- ▶ Develop and maintain an electronic Data Room.
- ▶ Develop a targeted list of qualified Purchasers (strategic and financial) and Funding Sources (debt, sub/mezzanine debt and equity).
- ▶ Solicit Purchasers and Funding Sources to determine interest in purchase of or investment in the business. Provide interested parties with Teaser and CA.
- ▶ Provide Purchasers and Funding Sources that have executed the CA a copy of the CIM and details of sales process including but not limited to form and content of offer and time lines.
- ▶ Obtain offers in prescribed form from Purchasers and term sheets from Funding Sources.
- ▶ Short list qualified Purchasers and Funding Sources and provide access to Data Room, site visit and access to management as appropriate.
- ▶ Based on due diligence, site visit and management interviews obtain revised offers and term sheets from short listed Purchasers and Funding Sources.
- ▶ Choose successful Purchaser or Funding Source and enter into definitive Purchase and Sale Agreement or Financing Documents.
- ▶ Assist Company in obtaining required court approval for the sale or re-financing transaction.
- ▶ Through regular reporting the CRA and Sales Committee will be apprised of process.

Time line:

Target time line for completion of the transaction is July 15, 2010:

- | | |
|---|---------|
| ▶ Begin dissemination of Teasers and CA's | May 31 |
| ▶ Disseminate CIM and provide access to Data Room | June 1 |
| ▶ Obtain Indicative Offers | June 16 |
| ▶ Obtain Binding Offers | June 25 |
| ▶ Execute Binding Offer subject to Court Approval | June 30 |
| ▶ Closing | July 15 |

MAY 31 2010

Cow Harbour
Sales & Refinancing Work plan
Draft for Discussion

This time & work fee estimate relates only to sales & refinancing activities, and assumes:

- 1) Approximately 25 - 40 prospective financing sources and strategic purchasers are contacted and invited to review the teaser and arrange a confidentiality agreement.
- 2) Moderate purchaser interest (2 parties proceed past indicative bid phase).
- 3) The process proceeds to binding offer, which is approved by June 30, 2010.

	Ernst & Young		Deloitte	
	SVP	Senior Associate	VP	Associate / Analyst
Review of Financial Info, Monitors Reports, equipment lists, discussion with monitors staff, CRA and other prep	20	15	-	-
Assist with preparation and review of marketing materials including CIM, Teaser etc. for sale	15	15	32	40
Assist with and review marketing materials including CIM, Teaser etc. for re-financing	2	-	3	3
Research purchasers and finalize targets	3	10	-	-
Research funding sources and finalize targets	3	10	-	-
Broker Dealer Qualification of US targets	1	5	-	-
Contact purchasers and co-ordinate execution of CA's and dissemination of material	10	10	-	-
Contact re-financing sources and co-ordinate execution of CA's and dissemination of material	10	20	-	-
Observe marketing efforts, and where directed by the court or sales and refinancing committee participate in marketing.	-	-	10	5
Follow up calls, solicit interest from purchasers	5	5	-	-
Follow up calls, solicit interest from financing sources	5	5	-	-
Document all purchaser contact in Capital IQ	2	5	2	2
Document all re-financier contact in Capital IQ	2	5	2	2
Compile and provide names and summaries of responses and inquiries advanced by interested parties.	-	-	25	20
Develop form of indicative bids and together with counsel, form of binding offers	5	-	-	-
Negotiations and discussions with purchasers leading to indicative bids, additional "selling" material s appropriate	30	10	-	-
Negotiations and discussions with re-financiers leading to indicative bids additional "selling" material as appropriate	20	5	-	-
Maintain and control established dataroom, in response to inquiries and due diligence requests advanced by interested parties.	-	-	25	20
Clarify, Review and analyze indicative bids and make recommendations on short list	10	2	1	1

Cow Harbour
Sales & Refinancing Work plan
Draft for Discussion

This time & work fee estimate relates only to sales & refinancing activities, and assumes:

- 1) Approximately 25 - 40 prospective financing sources and strategic purchasers are contacted and invited to review the teaser and arrange a confidentiality agreement.
- 2) Moderate purchaser interest (2 parties proceed past indicative bid phase).
- 3) The process proceeds to binding offer, which is approved by June 30, 2010.

	Ernst & Young		Deloitte	
	SVP	Senior Associate	VP	Associate / Analyst
Respond to due diligence requests, arrange and attend management presentations, site visits etc. with short listed candidates	20	40	-	-
Discussions and responses to interested parties regarding due diligence requests, including participation as appropriate, and follow-up from management presentations.	-	-	20	60
Clarify, Review and analyze binding offers and make recommendations on short list	10	5	2	2
Negotiate final business terms with ultimate purchaser or financing source	5	-	-	-
Required reporting, attendance at meetings, maintenance of files etc.	20	10	10	5
Total estimated hours	198	177	132	160
Rate	\$ 650	\$ 375	\$ 400	\$ 250
	\$ 128,700	\$ 66,375	\$ 52,800	\$ 40,000
Estimated Work Fees	\$ 195,075		\$ 92,800	

* Assuming moderate refinancing / purchaser interest.

Estimated work fees do not include GST, disbursements, and administrative charges.

If there is significant refinancing / purchaser interest, which correlates to a greater likelihood for Cow Harbour's prospect to refinance or premium for purchaser value, the process could require an additional 200-300 hours to manage the process, additional negotiations, due diligence requirements / interested party external transaction due diligence advisors, assessment of bids, and additional reporting. The committee overseeing the sales and refinancing will be appraised of the progress on a weekly basis.

**Patrick F. Ross
253 Third Street SE
Medicine Hat, Alberta, T1A 0G4**

STRICTLY PRIVATE & CONFIDENTIAL

March 24, 2010

Cow Harbour Construction Ltd.

Attention: Alphonse Hutchings

Dear Sirs:

Re: Engagement of Mr. Pat Ross

The Board of Directors of Cow Harbour Construction Ltd. ("CHC") has agreed to retain Pat Ross ("PR") to act as Chief Restructuring Officer ("CRO") pertaining to the restructuring of CHC (the "Restructuring"). This letter will confirm the retainer of Pat Ross as CRO, and will set out the terms of the engagement of Pat Ross.

1. PR Services

PR shall provide his expertise, services and assistance to CHC in connection with the development and implementation of a financial restructuring plan for CHC, and will report to the Board with respect thereto. The CRO will have senior executive responsibility for the Restructuring and shall report directly to the Board of Directors or a Committee of the Board in that regard. Without limiting the foregoing, the Board of Directors authorizes PR to undertake the following:

- Meet and communicate with the primary customer of CHC (Syncrude) to negotiate its continued support throughout the CCAA restructuring period, should such remedy be deemed appropriate;
- Oversee CHC's adherence to the CCAA cash flow projections and to ensure the timely reporting of any variances therefrom to the CCAA monitor and to Royal Bank of Canada ("RBC") or its advisors;
- Oversee the development of long-term projections and a business plan for CHC including an appropriate governance structure and to cooperate with the CCAA monitor as well as RBC and its advisors in the review of such and their assessment of the overall viability of CHC;
- Develop a plan or arrangement in conjunction with CHC and its advisors, the monitor, RBC and other major stakeholders' including:
 - (a) Assisting CHC in discussions and negotiations with RBC and its other lenders, including discussions and negotiations concerning forbearance agreements and support where necessary;

- (b) Overall responsibility for the restructuring, re-capitalization / sale of equity process, provided that the Board of Directors' approval shall be required to conclude any transaction;
- (c) Acting as key point of contact for communications with RBC and its advisors including reporting to RBC on the progress of the re-capitalization / sale of equity process and providing them with any reasonable information in this regard;
- (d) All other RBC reporting as required by RBC;
- (e) Review satisfaction of all required conditions for the provisions of DIP financing by RBC; and,
- (f) Management of all litigation matters, in conjunction with CHC's legal counsel.

2. Information

CHC represents and warrants to PR, and will use its best efforts to ensure, that all information to be provided to PR, directly or indirectly, orally or in writing, in connection with PR's engagement hereunder will be accurate and complete in all material respects and will not be misleading in any material way and will not omit to state any fact or information which might reasonably be considered material to PR in performing his services hereunder. PR shall be entitled to rely upon such information and PR shall be under no obligation to verify independently any such information so provided to or otherwise obtained by PR. PR shall also be under no obligation to determine whether there have been or to investigate any changes in any of such information occurring after the date any of the same were provided or obtained. PR will be entitled to convey to RBC or its advisors any information it receives, acquires or develops in the course of carrying out its engagement, without the necessity of further authorization from CHC. PR will promptly convey to RBC or its advisors any material information which would impact the financial or priority position of RBC.

Each of CHC and PR will make available to each other all information it receives concerning any proposed financing, sale or equity transaction.

3. Fees

PR' compensation for the services referred to above will be as follows:

4.1 Work Fee

- A daily work fee of \$2,000 payable weekly;
- A completion fee of \$500,000 (the "Completion Fee") payable at the completion of this

mandate. "Completion of this mandate" will be defined as 3 months from the date a plan of arrangement is sanctioned by the Court.

4.2 Success Fees

(a) Financing and sales approved by RBC:

- 1 % of any additional or replacement financing raised, ^{or sourced by PR} with new or existing lenders (only for a new loan) payable from closing proceeds; or
- 1 % of any proceeds from a sale of equity or assets ^{sourced by PR} (other than the sale-leaseback transaction entered into by CHC), payable from closing proceeds; or
- 1 % of any combination of financing and sale proceeds; ^{sourced by PR}

4.3 Termination Fees and Success Fees Earned

- (a) In the event that PR is terminated without cause prior to ^{completion of this mandate} ~~CHC emerging from CCAA~~ ^{DK} protection., PR will be paid the greater of i) Success Fees Earned as detailed above and defined below; or ii) a break fee in lieu of success fees calculated as \$10,000 per week multiplied by the number of weeks worked , in addition to the weekly work fee.

In the event of a termination by either party, the Success Fees Earned will be calculated as follows: i) the full amount of the success fee referred to in 4.2 (a) if an agreement is entered into during or after termination, for a transaction contemplated in 4.2 (a) with a party who had reviewed information regarding CHC and declared that they had an interest, prior to termination, identified in writing by PR, and only if an agreement is entered into within three months of termination and transaction closes within six months of executing an agreement; plus ii) any other success fees earned during the period prior to our termination which remain unpaid (the "Success Fees Earned").

4.4 Guarantee of Fees

In addition to the foregoing compensation, CHC shall reimburse PR for its reasonable out-of-pocket expenses in entering into and performing this agreement, including, but not limited to automobile mileage expenses, travel and communications expenses and courier charges and printing charges. Such reimbursable expenses will be payable on receipt of PR's invoices by CHC.

Since PR resides in Southern Alberta, the company will pay PR a subsistence allowance of \$190 per day for each day PR is away from his residence.

All or part of the foregoing may be subject to the federal Goods and Services Tax. Where tax is applicable, an additional amount equal to the amount of tax owing thereon will be charged to and payable by CHC.

4. Additional Services

If PR is requested to perform services in addition to those described above, then the terms and conditions relating to such services will be outlined in a separate agreement and the fees for such services will be in addition to fees payable hereunder and will be negotiated separately and in good faith.

PR will be entitled to engage directly or cause CHC to engage outside consultants and advisors as it considers necessary, acting reasonably and after consultation with CHC, which consultation will not be necessary with respect to the engagement of counsel by PR. All fees and expenses in this regard, will be paid directly and promptly by CHC. This provision does not confer upon PR the right to subcontract the services contemplated by this Agreement.

4. Release and Indemnification

CHC hereby agrees to release and indemnify PR in accordance with Schedule A hereto, which Schedule forms part of this agreement, the consideration for which is the entering into of this agreement. Such indemnity (the "Indemnity") shall be executed and delivered to PR on the execution of this agreement and shall be in addition to, and not in substitution for, any liability which CHC or any other person may have to PR or other persons indemnified pursuant to the Indemnity apart from such Indemnity. The Indemnity shall also apply to any additional services provided pursuant to paragraph 5 above until superseded or replaced by agreement of the parties.

5. Survival of Terms and Termination

This engagement shall take effect as of March 24, 1010 and will expire ^{on completion of this mandate} ~~when CHC emerges from CCAA~~ ^{DK} protection. (as defined in this agreement).

This agreement may be terminated by either CHC or PR upon not less than 10 days written notice to that effect to the other party, provided that the obligations of CHC to indemnify PR, to pay any amounts due to PR pursuant to this agreement including fees, expenses and tax and the representations and warranties provided

by CHC in connection with this agreement shall survive the completion of PR' engagement hereunder or other termination of this agreement.

6. Conflicts

CHC acknowledges that other companies with conflicting interests may also be clients of PR, and that PR may be providing services to them. PR also acknowledges that PR may be engaged in investment, venture capital or other activities for his own account and may have interests (proprietary or otherwise) that may compete or conflict with the interests of CHC. It is PR's policy to hold in confidence the affairs of his clients. Therefore, PR will not use confidential information obtained from CHC except in connection with the services to be provided hereunder and will not disclose such confidential information to any third party or to any of its affiliates, employees or advisors except in connection with the services to be provided hereunder and will not use or make available to CHC confidential information that PR has obtained from any other client or that PR may have developed or obtained in connection with activities for its own account.

Notwithstanding the foregoing, PR declares that he is not acting for any of the equipment lenders or any related party.

7. Insurance

CHC will take all reasonable steps to arrange, at its own cost, Officers Liability Insurance for any PR representative acting in an executive capacity and provide evidence thereof, to the extent that such policy may be obtained at a reasonable cost and will provide reasonable benefits.

8. Other Matters

This agreement will be for the benefit of and be binding upon the parties hereto and their respective successors and assigns. This agreement shall be governed by and construed in accordance with the laws of the Province of Alberta and the parties hereby irrevocably attorney to the jurisdiction of the courts of the Province of Alberta. All financial references in this agreement are to Canadian dollars unless otherwise indicated. If any provision hereof shall be determined to be invalid or unenforceable in any respect, such determination shall not affect such provision in any other respect or any other provision hereof. Headings used herein are for convenience of reference only and shall not affect the interpretation or construction of this agreement

9. Assignment

PR shall have the right by notice in writing to CHC and consent of RBC to assign this contract to a corporation controlled by PR.

10. Notices

All notices and other communications given under this letter shall be in writing and faxed or delivered by personal delivery, if to CHC, at its address at Email Address: Demetri.Koumarelas@cowharb.ca

and, if to PR at its address at:

253 Third Street SE

Medicine Hat, Alberta, T1A 0G4

Attention: Mr. Pat Ross

or as each party may specify in a written notice to the other party. All such notices and communications shall be effective when faxed or delivered, as the case may be.

11. Acceptance

Please confirm that the foregoing is in accordance with CHC's understanding by signing and returning by facsimile or email the attached duplicate copy of this letter which shall thereupon constitute a binding agreement between CHC and PR.

Yours very truly,

Pat Ross

Per: 

Accepted and agreed to as of 4/6/10

Cow Harbour Construction Ltd.

Per: 

for: Alphonse Hutchings

Pat Ross
SCHEDULE A
INDEMNITY

In connection with the engagement (the "Engagement") of Pat Ross. ("PR") pursuant to an engagement letter (the "Engagement Letter") between PR and Cow Harbour Construction Ltd. ("CHC") dated March 24, 2010, the undersigned agree solidarily to indemnify and hold harmless PR providing services to CHC pursuant to the Engagement Letter (the "Indemnified Party"), from and against any and all losses, expenses, claims, actions, damages and liabilities, joint or several, including the aggregate amount paid in reasonable settlement of any actions, suits, proceedings, investigations or claims and the reasonable fees and expenses of its counsel on a solicitor and his own client basis that may be incurred in advising with respect to and/or defending any action, suit, proceeding, investigation or claim that may be made or threatened against the Indemnified Party or in enforcing this indemnity (collectively, the "Claims") to which the Indemnified Party may become subject or otherwise involved in any capacity insofar as the Claims relate to, are caused by, result from, arise out of or are based upon, directly or indirectly, the Engagement.

Notwithstanding the foregoing, the indemnity provided above shall not apply to the extent that a court of competent jurisdiction in a final judgment that has become non-appealable shall determine that such Claims to which the Indemnified Party may be subject were caused primarily by the negligence or wilful misconduct of the Indemnified Party. However, if the Claims arise in connection with allegedly negligent reporting of financial information, the Indemnified Party shall remain entitled to the indemnity contemplated hereunder except in cases of the Indemnified Party's gross negligence.

The undersigned will not, without PR's' written consent, settle, compromise, consent to the entry of any judgment in, admit liability for, or otherwise seek to terminate, any action, suit, proceeding, investigation or claim in respect of which indemnification may be sought hereunder (whether or not the Indemnified Party is a party thereto) unless such settlement, compromise, consent, admission or termination includes a release of the Indemnified Party from any liabilities arising out of such action, suit, proceeding, investigation or claim.

Promptly after receiving notice of an action, suit, proceeding or claim against PR or receipt of notice of the commencement of any investigation which is based, directly or indirectly, upon any matter in respect of which indemnification may be sought from the undersigned, PR will notify the undersigned in writing of the particulars thereof. The omission so to notify the undersigned shall not relieve them of any liability which they may have to PR.

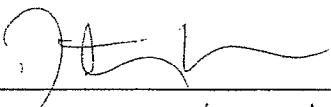
The undersigned also agree to reimburse PR for the time spent by its personnel in connection with any Claim at their normal *per diem* rates. PR may retain counsel to separately represent it in the defence of a Claim, which shall be at the undersigned's expense on a solicitor and his own client basis if (i) the undersigned do not promptly assume the defence of the Claim, (ii) the undersigned agree to separate representation, or (iii) PR is advised by counsel that there is an actual or potential conflict in the undersigned's and PR's respective interests or additional defences are available to PR, which makes representation by the same counsel inappropriate.

The undersigned agree to waive any right they may have of first requiring PR to proceed against or enforce any other right, power, remedy or security or claim payments from any other person before claiming indemnity or contribution hereunder.

The obligations of the undersigned hereunder are in addition to any liabilities which they may otherwise have to PR, and shall be binding upon and inure to the benefit of any successors, permitted assigns, heirs and personal representatives of the undersigned, PR. The foregoing provisions shall survive the completion of professional services rendered under the attached Engagement and any termination of PR's services to CHC.

DATED as of this 6th of April, 2010.

CHC

Per: 

Name Demetri Kounvelas

Title CFO

CHC

Per: _____

Name

Title

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF EDMONTON

IN THE MATTER OF THE *BANKRUPTCY AND
INSOLVENCY ACT*,
R.S.C. 1985, c. B-3, AS AMENDED

IN THE MATTER OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF THE PLAN OF
ARRANGEMENT AND REORGANIZATION OF
COW HARBOUR CONTSTRUCTION LTD.

**SECOND REPORT OF THE CHIEF RESTRUCTURING
ADVISOR**

MR. PATRICK F. ROSS
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